

approve the settlement for the reasons set forth herein and dismiss this action with prejudice.

2. Plaintiff filed his Complaint on September 4, 2012, [Doc. # 1], alleging violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* Defendants timely filed their answer on January 9, 2013. [Doc. # 8].

3. Based upon their understandings and assessments of the merits and deficiencies in the asserted claims and defenses, the Parties, acting at arms-length, in good faith and with the advice of counsel, have negotiated and entered into a Settlement Agreement and Release. Pursuant to *Lynn’s Food Stores, Inc. v. United States of Am.*, 679 F.2d 1350, 1353 (11th Cir. 1982), judicial approval is required to give effect to Plaintiff’s release of his FLSA claims, which is material to the Settlement Agreement and Release.

4. In deciding whether to approve a settlement, courts rely on the adversarial nature of a litigated FLSA case that results in a settlement as indicia of the fairness of the agreement. *See Lynn’s Food Stores, Inc.*, 679 F.2d at 1354. “In evaluating the settlement, the Court should keep in mind the unique ability of class and defense counsel to assess the potential risks and rewards of litigation; a presumption of fairness, adequacy and reasonableness may attach to a ... settlement reached in arms-length negotiations between experienced, capable

counsel....” *In re BankAmerica Corp. Sec. Litig.*, 210 F.R.D. 694, 700 (E.D. Mo. 2002).

5. The Parties have attached hereto as Exhibit “1” a copy of the Settlement Agreement and Release that embodies the terms of the settlement. The Parties are filing the settlement agreement with the Court and have removed the confidentiality provisions from the settlement agreement in conformity with the Court’s April 11, 2013 Order denying the Parties’ first Joint Motion to Approve Settlement Agreement Pursuant to the Fair Labor Standards Act.

6. The Parties further request that the Court retain jurisdiction over this matter and reference the Settlement Agreement and Release into its Order granting this Motion.

WHEREFORE, the Parties agree and respectfully request that this Court review and approve their Settlement Agreement and Release. For the Court’s convenience, a proposed Order granting this Motion and dismissing Plaintiff’s claims with prejudice is attached hereto as Exhibit “2”.

Respectfully submitted this 23rd day of April, 2013.

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CERTIFICATION OF COMPLIANCE

Pursuant to Local Rule 7.1(D), the undersigned counsel hereby certifies that this filing complies with the type-volume requirements set forth in Local Rule 5.1.

This document has been prepared in Times New Roman, 14 point font.

This 23rd day of April, 2013.

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